



State of Wisconsin  
2005 - 2006 LEGISLATURE

Wanted soon (m 11/30)

LRB-3608/P1

RCT:lmk/jf

↑  
STAYS RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

regenerate

✓

1 AN ACT *to repeal* 283.11 (2) (b), 283.11 (3) (d), 283.11 (4) (e), 285.11 (6) (a) and  
2 (b), 285.21 (1) (b) 1. to 4., 285.21 (4), 285.27 (2) (b) 1. to 4. and 285.27 (4); *to*  
3 *renumber and amend* 283.11 (2) (a), 285.11 (6) (intro.), 285.21 (1) (b) (intro.)  
4 and 285.27 (2) (b) (intro.); and *to amend* 283.11 (3) (a), 283.11 (3) (am), 283.11  
5 (4) (a) (intro.), 285.11 (16), 285.21 (1) (a), 285.21 (2), 285.23 (1), 285.27 (1) (a) and  
6 285.27 (2) (a) of the statutes; *relating to: standards* relating to air pollution  
7 and *to* water pollution. *from point sources*

*Analysis by the Legislative Reference Bureau*

This is a preliminary draft. An analysis will be provided in a later version.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

8 SECTION 1. 283.11 (2) (a) of the statutes is renumbered 283.11 (2) and amended  
9 to read:  
10 283.11 (2) ~~Except for rules concerning storm water discharges for which~~  
11 ~~permits are issued under s. 283.33, all~~ All rules promulgated by the department

1 under this chapter as they relate to point source discharges, effluent limitations,  
2 municipal monitoring requirements, standards of performance for new sources, toxic  
3 effluent standards or prohibitions and pretreatment standards shall ~~comply with~~  
4 ~~and not exceed~~ be at least as stringent as the requirements of the federal water  
5 pollution control act, 33 USC 1251 to 1387, and regulations adopted under that act.

6 **SECTION 2.** 283.11 (2) (b) of the statutes is repealed.

7 **SECTION 3.** 283.11 (3) (a) of the statutes is amended to read:

8 283.11 (3) (a) *Standards for nitrogen and disinfection.* ~~Notwithstanding sub.~~  
9 ~~(1) or (2), the~~ The department may promulgate by rule effluent limitations  
10 representing the best available demonstrated control technology, processes,  
11 operating methods or other alternatives concerning the discharge of nitrogen  
12 compounds and concerning the disinfection of sanitary wastewaters if the U.S.  
13 environmental protection agency has not promulgated an effluent limitation,  
14 effluent standard or prohibition concerning this type of discharge or disinfection.

15 **SECTION 4.** 283.11 (3) (am) of the statutes is amended to read:

16 283.11 (3) (am) *Standards for phosphorous.* ~~Notwithstanding sub. (1) or (2),~~  
17 ~~the~~ The department shall promulgate by rule effluent limitations representing the  
18 best available demonstrated control technology, processes, operating methods or  
19 other alternatives concerning the discharge of phosphorous if the U.S.  
20 environmental protection agency has not promulgated an effluent limitation,  
21 effluent standard or prohibition concerning this type of discharge.

22 **SECTION 5.** 283.11 (3) (d) of the statutes is repealed.

23 **SECTION 6.** 283.11 (4) (a) (intro.) of the statutes is amended to read:

24 283.11 (4) (a) *Authorization.* (intro.) ~~Notwithstanding sub. (1) or (2), the~~ The  
25 department may promulgate by rule, under s. 283.21, a toxic effluent standard or

1 prohibition applicable to a category or class of point sources for the discharge of an  
2 identified toxic pollutant, if the U.S. environmental protection agency has not done  
3 either of the following for that identified toxic pollutant:

4 **SECTION 7.** 283.11 (4) (e) of the statutes is repealed.

5 **SECTION 8.** 285.11 (6) (intro.) of the statutes is ~~renumbered 285.11 (6) and~~  
6 amended to read:

7 285.11 (6) <sup>(intro)</sup> Prepare and develop one or more comprehensive plans for the  
8 prevention, abatement and control of air pollution in this state. The department  
9 thereafter shall be responsible for the revision and implementation of the plans. The  
10 ~~rules or control strategies submitted to the federal environmental protection agency~~ <sup>plain</sup>  
11 ~~under the federal clean air act for control of atmospheric ozone shall conform with~~ <sup>strike</sup>  
12 ~~the federal clean air act unless, based on the recommendation of the natural~~ <sup>plain</sup> <sup>maybe more restrictive than</sup>  
13 ~~resources board or the head of the department, as defined in s. 15.01 (8), of any other~~  
14 ~~department, as defined in s. 15.01 (5), that promulgates a rule or establishes a control~~  
15 ~~strategy, the governor determines that measures beyond those required by the~~ <sup>strike</sup> <sup>the</sup> <sup>plain</sup> <sup>strike</sup>  
16 ~~federal clean air act~~ <sup>strike</sup> <sup>plain</sup> meet any of the following criteria:

17 **SECTION 9.** 285.11 (6) (a) and (b) of the statutes are repealed.

18 **SECTION 10.** 285.11 (16) of the statutes is amended to read:

19 285.11 (16) Promulgate rules <sup>plain</sup> consistent with but no more ~~restrictive than~~ <sup>at least as</sup> <sup>as</sup> the  
20 ~~federal clean air act~~ <sup>plain</sup> <sup>strikes</sup> <sup>and regulations promulgated under that act</sup> that specify the amounts of emissions that result in a stationary  
21 source being classified as a major source and that may limit the classification of a  
22 major source to specified categories of stationary sources and to specific air  
23 contaminants.

\*\*\*NOTE: Section 285.11 (17) also requires consistency with the CAA. Do you want to amend it? Do you want the amendment to s. 285.11 (16) to only eliminate "but no more restrictive than?"

secretary

*that is at least as*

1 **SECTION 11.** 285.21 (1) (a) of the statutes is amended to read:

2 285.21 (1) (a) *Similar to federal standard.* If an ambient air quality standard  
3 is promulgated under section 109 of the federal clean air act, the department shall  
4 promulgate by rule a ~~similar~~ <sup>plain</sup> standard but this standard may not be more restrictive  
5 <sup>as</sup> than the federal standard except as provided under sub. (4).

\*\*\*\*NOTE: Is this the treatment that you want for s. 285.21 (1) (a)?

6 **SECTION 12.** 285.21 (1) (b) (intro.) of the statutes is renumbered 285.21 (1) (b)  
7 and amended to read:

8 285.21 (1) (b) *Standard to protect health or welfare.* If an ambient air quality  
9 standard for any air contaminant is not promulgated under section 109 of the federal  
10 clean air act, the department may promulgate an ambient air quality standard if the  
11 department finds <sup>based on credible information</sup> that the standard is needed to provide adequate protection for  
12 public health <sup>safety</sup> or welfare. <sup>for the environment</sup> The department may not make this finding for an air  
13 contaminant unless the finding is supported with written documentation that  
14 includes all of the following:

15 **SECTION 13.** 285.21 (1) (b) 1. to 4. of the statutes are repealed.

16 **SECTION 14.** 285.21 (2) of the statutes is amended to read:

17 285.21 (2) AMBIENT AIR INCREMENT. The department shall promulgate by rule  
18 ambient air increments for various air contaminants in attainment areas. The  
19 ambient air increments shall be consistent with and not more restrictive, either in  
20 terms of the concentration <sup>plain</sup> or the contaminants to which they apply, <sup>stricken</sup> than ambient  
21 air increments under the federal clean air act except as provided under sub. (4). <sup>plain</sup>

\*\*\*\*NOTE: Did you want to eliminate all of the stricken language or leave the requirement of consistency with the CAA?

22 **SECTION 15.** 285.21 (4) of the statutes is repealed.

\*\*\*\*NOTE: Is this the treatment that you want for s. 285.21 (4)?

1           **SECTION 16.** 285.23 (1) of the statutes is amended to read:

2           285.23 (1) PROCEDURES AND CRITERIA. The department shall promulgate by rule  
3           procedures and criteria to identify a nonattainment area and to reclassify a  
4           nonattainment area as an attainment area. After February 6, 2004, the department  
5           may not identify a county as part of a nonattainment area under the federal clean  
6           air act if the concentration of an air contaminant in the atmosphere in that county  
7           does not exceed an ambient air quality standard, unless under the federal clean air  
8           act the county is required to be designated as part of a nonattainment area.

9           **SECTION 17.** 285.27 (1) (a) of the statutes is amended to read:

10          285.27 (1) (a) *Similar to federal standard.* If a standard of performance for new  
11          stationary sources is promulgated under section 111 of the federal clean air act, the  
12          department shall promulgate by rule a similar emission standard, including  
13          administrative requirements that are consistent with the federal administrative  
14          requirements, but this standard may not be more restrictive in terms of emission  
15          limitations than the federal standard except as provided under sub. (4).  
*that is at least as plain*  
*plain as plain*

\*\*\*\*NOTE: Is this the treatment that you want for s. 285.27 (1) (a)?

16          **SECTION 18.** 285.27 (2) (a) of the statutes is amended to read:

17          285.27 (2) (a) *Similar to federal standard.* If an emission standard for a  
18          hazardous air contaminant is promulgated under section 112 of the federal clean air  
19          act, the department shall promulgate by rule a similar standard, including  
20          administrative requirements that are consistent with the federal administrative  
21          requirements, but this standard may not be more restrictive in terms of emission  
22          limitations than the federal standard except as provided under sub. (4).  
*that is at least as plain*  
*plain as plain*

23          **SECTION 19.** 285.27 (2) (b) (intro.) of the statutes is renumbered 285.27 (2) (b)  
24          and amended to read:

## SECTION 19

285.27 (2) (b) *Standard to protect public health ~~or welfare~~*. If an emission standard for a hazardous air contaminant is not promulgated under section 112 of the federal clean air act, the department may promulgate an emission standard for the hazardous air contaminant if the department finds the standard is needed to provide adequate protection for public health and safety ~~or welfare~~. or the environment The department may not make this finding for a hazardous air contaminant unless the finding is supported with written documentation that includes all of the following:

**SECTION 20.** 285.27 (2) (b) 1. to 4. of the statutes are repealed.

**SECTION 21.** 285.27 (4) of the statutes is repealed.

(END)

Section #: RN; 285.60(6)(a); 285.60(6)

Section #. RP; 285.60 (6) (b)

1

## Analysis insert

### AIR QUALITY

#### ***Ambient air quality standards and nonattainment areas***

Under the federal Clean Air Act (CAA), the Environmental Protection Agency (EPA) has established a national ambient air quality standard (NAAQS) for each of six air pollutants, including ozone. Under current state law, when EPA establishes an NAAQS for a pollutant, the Department of Natural Resources (DNR) must promulgate by rule a similar standard that may not be more restrictive than the federal standard.

This bill authorizes DNR to promulgate an ambient air quality standard that is more restrictive than the NAAQS for a pollutant.

Under current law, if EPA does not establish an NAAQS for a pollutant, DNR may establish an ambient air quality standard for the pollutant if it finds that the standard is needed to protect public health or welfare and supports this finding with specific documentation, including a public health risk assessment, a comparison of the proposed standard with air quality standards in nearby states, and an evaluation of options for managing the risks caused by the pollutant which shows that the proposed standard reduces risks in the most cost-effective manner that is practical.

This bill authorizes DNR to establish an ambient air quality standard for a pollutant in the absence of an NAAQS if DNR finds, based on credible information, that the standard is needed to protect public health, safety, or welfare or the environment. The bill eliminates the current law requirement of specific documentation for the finding.

Under the CAA, an area with levels of a pollutant above an NAAQS must be designated as a nonattainment area. In order to eliminate the violation of the NAAQS, nonattainment areas are subject to more stringent requirements under the CAA than other areas. Under current state law, DNR is responsible for identifying nonattainment areas and DNR may not identify a county as part of a nonattainment area if the air in the county does not violate an NAAQS unless the CAA requires the county to be identified as part of a nonattainment area.

This bill eliminates the prohibition on DNR identifying a county as part of a nonattainment area if the air in the county does not violate an NAAQS.

#### ***Emission standards for hazardous air pollutants***

Under the CAA, EPA establishes <sup>national</sup> emission standards for hazardous air pollutants (NESHAPs). Under current state law, when EPA establishes a NESHAP for a pollutant, DNR must promulgate by rule a similar emission standard that may not be more restrictive than the federal standard. DNR's rule must include administrative requirements that are consistent with the federal administrative requirements.

This bill authorizes DNR to promulgate an emission standard for a hazardous air pollutant that is more restrictive than the NESHAP for the pollutant. The bill

also eliminates the requirement that DNR's rule include administrative requirements that are consistent with the federal administrative requirements. ✓

Under current law, if EPA does not establish a NESHAP for a hazardous air pollutant, DNR may establish an emission standard for the pollutant if it finds that the standard is needed to protect public health or welfare and supports this finding with specific documentation, including a public health risk assessment, a comparison of the proposed standard with air quality standards in nearby states, and an evaluation of options for managing the risks caused by the pollutant which shows that the proposed standard reduces risks in the most cost-effective manner that is practical. ✓

This bill authorizes DNR to establish an emission standard for a hazardous air pollutant in the absence of a NESHAP if DNR finds, based on credible information, that the standard is needed to protect public health, safety, or welfare or the environment. The bill eliminates the current law requirement of specific documentation for the finding. ✓

### ***Air pollution permit exemptions***

Under current law, a person must generally obtain an air pollution construction permit from DNR before constructing or modifying a stationary source of air pollution. A person must also generally obtain an air pollution operation permit from DNR before operating a stationary source of air pollution. ✓ Current law requires DNR to promulgate rules exempting stationary sources of air pollution from the requirement to obtain a construction permit and an operation permit if the emissions from the sources do not present a significant hazard to public health, safety, or welfare or to the environment, unless the CAA requires the sources to be covered by permits. ✓

This bill eliminates the requirement that DNR promulgate rules exempting stationary sources of air pollution from the requirement to obtain a construction permit and an operation permit if the emissions from the sources do not present a significant hazard to public health, safety, or welfare or to the environment. ✓

### **WATER QUALITY**

Under the federal Clean Water Act (CWA), ✓ EPA establishes requirements, including effluent limitations, for wastewater discharged from point sources, such as sewage treatment plants factories. ✓ An effluent limitation is a limit on the amount of a pollutant that can be present in the wastewater discharged by a point source into a water body. ✓ Under state law, when EPA establishes a type of requirement for a pollutant under the CWA, DNR must promulgate a rule establishing the same type of requirement for that pollutant that complies with and does not exceed the requirement established by EPA. ✓

This bill authorizes DNR to promulgate a requirement, such as an effluent limitation, for a pollutant that exceeds the requirements established by EPA under the CWA. ✓

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

**Insert 3-17**

(next page)

psinsert  
anal  
space



Insert 3-17 ↓

1           **SECTION 1.** 285.11 (6) (c) of the statutes is created to read:

2           285.11 **(6)** (c) The measures are necessary to protect the public health, safety,  
3 or welfare or the environment. ✓

4           **Insert 3-23** ✓

5           **SECTION 2.** 285.11 (17) of the statutes is amended to read:

6           285.11 **(17)** Promulgate rules, ~~consistent with~~ at least as restrictive as the  
7 federal clean air act and regulations promulgated under that act, that modify the  
8 meaning of the term "modification" as it relates to specified categories of stationary  
9 sources, to specific air contaminants and to amounts of emissions or increases in  
10 emissions. ✓

**History:** 1995 a. 227 ss. 455, 989; 1999 a. 9; 2003 a. 118.

**Tradewell, Becky**

---

**From:** Rinehart, Mark W.  
**Sent:** Wednesday, February 22, 2006 8:43 AM  
**To:** Tradewell, Becky  
**Subject:** FW: Draft review: LRB 05-3608/1 Topic: Allow environmental standards to be stricter than federal standards  
**Attachments:** 12-27-05 Dawson re 3608-1.doc

Tom Dawson asked that I forward to you his last few changes to LRB 3608.

Thanks.

Mark Rinehart  
Legislative Liaison  
Department of Justice

---

**From:** Dawson, Thomas J.  
**Sent:** Tuesday, December 27, 2005 4:23 PM  
**To:** Rinehart, Mark W.  
**Subject:** RE: Draft review: LRB 05-3608/1 Topic: Allow environmental standards to be stricter than federal standards

Attached is the result of my most recent review.

I don't know how the fiscal impact review will go, but in my view it should compare our changes to the status quo that existed prior to relatively recent revisions of the statutes, such as in the "Jobs Act." For example, the proposed revisions will eliminate the costs of the cumbersome process imposed on DNR under Jobs Act. DNR may still use its environmental assessment review under Wis. Stat. s. 1.11 to flesh out relevant risks and costs of its rules and standards. More protective standards will reduce death, injury, treatment and health care costs that should also be taken into account.

Thanks!

---

**From:** Rinehart, Mark W.  
**Sent:** Thursday, December 15, 2005 10:50 AM  
**To:** Dawson, Thomas J.  
**Subject:** FW: Draft review: LRB 05-3608/1 Topic: Allow environmental standards to be stricter than federal standards

---

**From:** Basford, Sarah  
**Sent:** Thursday, December 15, 2005 10:48 AM  
**To:** Rinehart, Mark W.  
**Subject:** Draft review: LRB 05-3608/1 Topic: Allow environmental standards to be stricter than federal standards

**Dawson Comments on LRB—3608/1  
December 27, 2005**

**Analysis by LRB Section**

**General Intent**

It would be useful to state the overall intent of the bill is to authorize DNR to enact more stringent standards and requirements than the federal government under the federal clean water act and federal clean air act to prevent harm and to protect human health and the environment, consistent with similar provisions under previous statutes, such as those in effect prior to recent revisions of the law under the "Jobs Act."

¶ 3 at 2 states:

"This bill authorizes DNR to establish an ambient air quality standard for a pollutant in the absence of an NAAQS if DNR finds, based on credible information, that the standard is needed to protect public health, safety, or welfare or the environment. The bill eliminates the current law requirement of specific documentation for the finding."

**Comment:** This is not accurate. The DNR would still be required to make specific findings to support its rule changes, which would have to include documentation to support them, albeit not necessarily the documentation currently required. *E.g., see* Wis. Stat. § 285.21 (2001-2002). More accurately, the bill returns the law to pre-2004 statutes by eliminating the current (newly added) requirement that there be specific documentation of specific risks, including pollution levels, e.g., "above recognized environmental health standards."

This same comment applies to the first sentence at 3, "The bill eliminates the current law requirement of specific documentation for the finding."

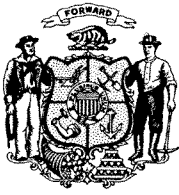
**Statutory Changes Section**

At 2, SECTION 2 should be revised to read:

**Section 2.** 283.11 (2) (b) of the statutes is ~~repealed~~; amended to read:

283.11 (2) (b) Rules concerning storm water discharges may be ~~no~~ more stringent than the requirements under the federal water pollution control act, 33 U.S.C. § 1251 to 33 U.S.C. § 1387, and regulations adopted under that act.

At 6 line 10 the word "than" should be shown to be stricken with a strike-through.



State of Wisconsin  
2005 - 2006 LEGISLATURE

SOON (in 2/22)

LRB-3608/1

RCT:lmk:ch

↑  
STAYS rmr

2005 BILL

DN Note

Reben

√t

1 AN ACT *to repeal* 283.11 (2) (b), 283.11 (3) (d), 283.11 (4) (e), 285.21 (1) (b) 1. to  
2 4., 285.21 (4), 285.27 (2) (b) 1. to 4., 285.27 (4) and 285.60 (6) (b); *to renumber*  
3 285.60 (6) (a); *to renumber and amend* 283.11 (2) (a), 285.21 (1) (b) (intro.)  
4 and 285.27 (2) (b) (intro.); *to amend* 283.11 (3) (a), 283.11 (3) (am), 283.11 (4)  
5 (a) (intro.), 285.11 (6) (intro.), 285.11 (16), 285.11 (17), 285.21 (1) (a), 285.21 (2),  
6 285.23 (1), 285.27 (1) (a) and 285.27 (2) (a); and *to create* 285.11 (6) (c) of the  
7 statutes; **relating to:** requirements relating to air pollution and to water  
8 pollution from point sources.

---

*Analysis by the Legislative Reference Bureau*

AIR QUALITY

*Ambient air quality standards and nonattainment areas*

Under the federal Clean Air Act (CAA), the Environmental Protection Agency (EPA) has established a national ambient air quality standard (NAAQS) for each of six air pollutants, including ozone. Under current state law, when EPA establishes an NAAQS for a pollutant, the Department of Natural Resources (DNR) must promulgate by rule a similar standard that may not be more restrictive than the federal standard.

**BILL**

This bill authorizes DNR to promulgate an ambient air quality standard that is more restrictive than the NAAQS for a pollutant.

Under current law, if EPA does not establish an NAAQS for a pollutant, DNR may establish an ambient air quality standard for the pollutant if it finds that the standard is needed to protect public health or welfare and supports this finding with specific documentation, including a public health risk assessment, a comparison of the proposed standard with air quality standards in nearby states, and an evaluation of options for managing the risks caused by the pollutant which shows that the proposed standard reduces risks in the most cost-effective manner that is practical.

This bill authorizes DNR to establish an ambient air quality standard for a pollutant in the absence of an NAAQS if DNR finds, based on credible information, that the standard is needed to protect public health, safety, or welfare ~~or the environment~~. The bill eliminates the current law requirement of specific documentation for the finding. *Analysis insert A*

Under the CAA, an area with levels of a pollutant above an NAAQS must be designated as a nonattainment area. In order to eliminate the violation of the NAAQS, nonattainment areas are subject to more stringent requirements under the CAA than other areas. Under current state law, DNR is responsible for identifying nonattainment areas and DNR may not identify a county as part of a nonattainment area if the air in the county does not violate an NAAQS unless the CAA requires the county to be identified as part of a nonattainment area.

This bill eliminates the prohibition on DNR identifying a county as part of a nonattainment area if the air in the county does not violate an NAAQS.

***Emission standards for hazardous air pollutants***

Under the CAA, EPA establishes national emission standards for hazardous air pollutants (NESHAPs). Under current state law, when EPA establishes a NESHAP for a pollutant, DNR must promulgate by rule a similar emission standard that may not be more restrictive than the federal standard. DNR's rule must include administrative requirements that are consistent with the federal administrative requirements.

This bill authorizes DNR to promulgate an emission standard for a hazardous air pollutant that is more restrictive than the NESHAP for the pollutant. The bill also eliminates the requirement that DNR's rule include administrative requirements that are consistent with the federal administrative requirements.

Under current law, if EPA does not establish a NESHAP for a hazardous air pollutant, DNR may establish an emission standard for the pollutant if it finds that the standard is needed to protect public health or welfare and supports this finding with specific documentation, including a public health risk assessment, a comparison of the proposed standard with air quality standards in nearby states, and an evaluation of options for managing the risks caused by the pollutant which shows that the proposed standard reduces risks in the most cost-effective manner that is practical.

This bill authorizes DNR to establish an emission standard for a hazardous air pollutant in the absence of a NESHAP if DNR finds, based on credible information, that the standard is needed to protect public health, safety, or welfare or the

**BILL***Analysis insert B*

environment. The bill eliminates the current law requirement ~~of specific~~ *documentation for the finding* *Keep*

***Air pollution permit exemptions***

Under current law, a person must generally obtain an air pollution construction permit from DNR before constructing or modifying a stationary source of air pollution. A person must also generally obtain an air pollution operation permit from DNR before operating a stationary source of air pollution. Current law requires DNR to promulgate rules exempting stationary sources of air pollution from the requirement to obtain a construction permit and an operation permit if the emissions from the sources do not present a significant hazard to public health, safety, or welfare or to the environment, unless the CAA requires the sources to be covered by permits.

This bill eliminates the requirement that DNR promulgate rules exempting stationary sources of air pollution from the requirement to obtain a construction permit and an operation permit if the emissions from the sources do not present a significant hazard to public health, safety, or welfare or to the environment.

**WATER QUALITY**

Under the federal Clean Water Act (CWA), EPA establishes requirements, including effluent limitations, for wastewater discharged from point sources, such as sewage treatment plants factories. An effluent limitation is a limit on the amount of a pollutant that can be present in the wastewater discharged by a point source into a water body. Under state law, when EPA establishes a type of requirement for a pollutant under the CWA, DNR must promulgate a rule establishing the same type of requirement for that pollutant that complies with and does not exceed the requirement established by EPA.

This bill authorizes DNR to promulgate a requirement, such as an effluent limitation, for a pollutant that exceeds the requirements established by EPA under the CWA.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

---

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 283.11 (2) (a) of the statutes is renumbered 283.11 (2) and amended  
2 to read:

3           283.11 (2) ~~Except for rules concerning storm water discharges for which~~  
4 permits are issued under s. 283.33, all All rules promulgated by the department  
5 under this chapter as they relate to point source discharges, effluent limitations,

**BILL****SECTION 1**

1 municipal monitoring requirements, standards of performance for new sources, toxic  
2 effluent standards or prohibitions and pretreatment standards shall ~~comply with~~  
3 ~~and not exceed~~ be at least as stringent as the requirements of the federal water  
4 pollution control act, 33 USC 1251 to 1387, and regulations adopted under that act.

5 **SECTION 2.** 283.11 (2) (b) of the statutes is repealed.

6 **SECTION 3.** 283.11 (3) (a) of the statutes is amended to read:

7 283.11 (3) (a) *Standards for nitrogen and disinfection.* ~~Notwithstanding sub.~~  
8 ~~(1) or (2), the~~ The department may promulgate by rule effluent limitations  
9 representing the best available demonstrated control technology, processes,  
10 operating methods or other alternatives concerning the discharge of nitrogen  
11 compounds and concerning the disinfection of sanitary wastewaters if the U.S.  
12 environmental protection agency has not promulgated an effluent limitation,  
13 effluent standard or prohibition concerning this type of discharge or disinfection.

14 **SECTION 4.** 283.11 (3) (am) of the statutes is amended to read:

15 283.11 (3) (am) *Standards for phosphorous.* ~~Notwithstanding sub. (1) or (2),~~  
16 ~~the~~ The department shall promulgate by rule effluent limitations representing the  
17 best available demonstrated control technology, processes, operating methods or  
18 other alternatives concerning the discharge of phosphorous if the U.S.  
19 environmental protection agency has not promulgated an effluent limitation,  
20 effluent standard or prohibition concerning this type of discharge.

21 **SECTION 5.** 283.11 (3) (d) of the statutes is repealed.

22 **SECTION 6.** 283.11 (4) (a) (intro.) of the statutes is amended to read:

23 283.11 (4) (a) *Authorization.* (intro.) ~~Notwithstanding sub. (1) or (2), the~~ The  
24 department may promulgate by rule, under s. 283.21, a toxic effluent standard or  
25 prohibition applicable to a category or class of point sources for the discharge of an

**BILL**

1 identified toxic pollutant, if the U.S. environmental protection agency has not done  
2 either of the following for that identified toxic pollutant:

3 **SECTION 7.** 283.11 (4) (e) of the statutes is repealed.

4 **SECTION 8.** 285.11 (6) (intro.) of the statutes is amended to read:

5 285.11 (6) (intro.) Prepare and develop one or more comprehensive plans for  
6 the prevention, abatement and control of air pollution in this state. The department  
7 thereafter shall be responsible for the revision and implementation of the plans. The  
8 rules or control strategies submitted to the federal environmental protection agency  
9 under the federal clean air act for control of atmospheric ozone ~~shall conform with~~  
10 ~~may be more restrictive than~~ the federal clean air act ~~unless, based on the~~  
11 ~~recommendation of if~~ the natural resources board or the head of the department, as  
12 defined in s. 15.01 (8), of any other department, as defined in s. 15.01 (5), that  
13 promulgates a rule or establishes a control strategy, the governor secretary  
14 determines that the measures beyond those required by the federal clean air act meet  
15 any of the following criteria:

16 **SECTION 9.** 285.11 (6) (c) of the statutes is created to read:

17 285.11 (6) (c) The measures are necessary to protect the public health, safety,  
18 or welfare or the environment.

19 **SECTION 10.** 285.11 (16) of the statutes is amended to read:

20 285.11 (16) Promulgate rules, ~~consistent with but no more~~ at least as  
21 ~~restrictive than~~ as the federal clean air act, and regulations promulgated under that  
22 act that specify the amounts of emissions that result in a stationary source being  
23 classified as a major source and that may limit the classification of a major source  
24 to specified categories of stationary sources and to specific air contaminants.

25 **SECTION 11.** 285.11 (17) of the statutes is amended to read:



## BILL

1           285.11 (17) Promulgate rules, ~~consistent with~~ at least as restrictive as the  
2 federal clean air act and regulations promulgated under that act, that modify the  
3 meaning of the term “modification” as it relates to specified categories of stationary  
4 sources, to specific air contaminants and to amounts of emissions or increases in  
5 emissions.

6           **SECTION 12.** 285.21 (1) (a) of the statutes is amended to read:

7           285.21 (1) (a) *Similar to federal standard.* If an ambient air quality standard  
8 is promulgated under section 109 of the federal clean air act, the department shall  
9 promulgate by rule a ~~similar standard but this standard may not be more~~ that is at  
10 least as restrictive <sup>↓</sup> ~~than as~~ the federal standard ~~except as provided under sub. (4).~~

11           **SECTION 13.** 285.21 (1) (b) (intro.) of the statutes is renumbered 285.21 (1) (b)  
12 and amended to read:

13           285.21 (1) (b) *Standard to protect health ~~or~~ safety, welfare, or the environment.*  
14 If an ambient air quality standard for any air contaminant is not promulgated under  
15 section 109 of the federal clean air act, the department may promulgate an ambient  
16 air quality standard if the department finds, based on credible information, that the  
17 standard is needed to provide adequate protection for public health, safety, or welfare  
18 or the environment. ~~The department may not make this finding for an air~~  
19 ~~contaminant unless the finding is supported with written documentation that~~  
20 ~~includes all of the following:~~

21           **SECTION 14.** 285.21 (1) (b) 1. to 4. of the statutes are repealed.

22           **SECTION 15.** 285.21 (2) of the statutes is amended to read:

23           285.21 (2) AMBIENT AIR INCREMENT. The department shall promulgate by rule  
24 ambient air increments for various air contaminants in attainment areas. The  
25 ambient air increments shall be ~~consistent with and not more~~ at least as restrictive,

**BILL**

1 either in terms of the concentration ~~or~~ and the contaminants to which they apply,  
2 ~~than~~ as ambient air increments under the federal clean air act ~~except as provided~~  
3 ~~under sub. (4).~~

4 **SECTION 16.** 285.21 (4) of the statutes is repealed.

5 **SECTION 17.** 285.23 (1) of the statutes is amended to read:

6 285.23 (1) PROCEDURES AND CRITERIA. The department shall promulgate by rule  
7 procedures and criteria to identify a nonattainment area and to reclassify a  
8 nonattainment area as an attainment area. ~~After February 6, 2004, the department~~  
9 ~~may not identify a county as part of a nonattainment area under the federal clean~~  
10 ~~air act if the concentration of an air contaminant in the atmosphere in that county~~  
11 ~~does not exceed an ambient air quality standard, unless under the federal clean air~~  
12 ~~act the county is required to be designated as part of a nonattainment area.~~

13 **SECTION 18.** 285.27 (1) (a) of the statutes is amended to read:

14 285.27 (1) (a) *Similar to federal standard.* If a standard of performance for new  
15 stationary sources is promulgated under section 111 of the federal clean air act, the  
16 department shall promulgate by rule a similar emission standard, ~~including~~  
17 ~~administrative requirements that are consistent with the federal administrative~~  
18 ~~requirements, but this standard may not be more~~ that is at least as restrictive in  
19 terms of emission limitations ~~than~~ as the federal standard ~~except as provided under~~  
20 ~~sub. (4).~~

21 **SECTION 19.** 285.27 (2) (a) of the statutes is amended to read:

22 285.27 (2) (a) *Similar to federal standard.* If an emission standard for a  
23 hazardous air contaminant is promulgated under section 112 of the federal clean air  
24 act, the department shall promulgate by rule a similar standard, ~~including~~  
25 ~~administrative requirements that are consistent with the federal administrative~~

**BILL****SECTION 19**

1 requirements, but this standard may not be more that is at least as restrictive in  
2 terms of emission limitations ~~than~~ as the federal standard ~~except as provided under~~  
3 ~~sub. (4).~~

4 **SECTION 20.** 285.27 (2) (b) (intro.) of the statutes is renumbered 285.27 (2) (b)  
5 and amended to read:

6 285.27 (2) (b) *Standard to protect public health, safety, or welfare or the*  
7 *environment.* If an emission standard for a hazardous air contaminant is not  
8 promulgated under section 112 of the federal clean air act, the department may  
9 promulgate an emission standard for the hazardous air contaminant if the  
10 department finds the standard is needed to provide adequate protection for public  
11 health, safety, or welfare or the environment ~~The department may not make this~~  
12 ~~finding for a hazardous air contaminant unless the finding is supported with written~~  
13 ~~documentation that includes all of the following:.~~

14 **SECTION 21.** 285.27 (2) (b) 1. to 4. of the statutes are repealed.

15 **SECTION 22.** 285.27 (4) of the statutes is repealed.

16 **SECTION 23.** 285.60 (6) (a) of the statutes is renumbered 285.60 (6).

17 **SECTION 24.** 285.60 (6) (b) of the statutes is repealed.

18 (END)



**2005-2006 DRAFTING INSERT**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB  
.....

**Analysis insert A**

NOA that the department support this finding with specific documentation, including a public health risk assessment, a comparison of the proposed standard with air quality standards in nearby states, and an evaluation of options for managing the risks caused by the pollutant which shows that the proposed standard reduces risks in the most cost-effective manner that is practical ✓

**Analysis insert B**

NOA that the department support this finding with specific documentation, including a public health risk assessment, a comparison of the proposed standard with air quality standards in nearby states, and an evaluation of options for managing the risks caused by the pollutant which shows that the proposed standard reduces risks in the most cost-effective manner that is practical ✓

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3608/2dn

RCT:.....

Imk

(date)

I have made some changes to the analysis in response to the concerns expressed by Tom Dawson, although I disagree that the analysis was inaccurate. ✓

The role of the analysis is to describe the affect of a bill by explaining how it would change current law. ✓ It is the task of proponents of a bill to advocate for passage of the bill by providing supporting information, such as that the bill returns the statutes to a previous version (when that is the case). ✓

The redraft instructions indicate that s. 283.11 (2) (b) should be amended rather than repealed. Under current law, s. 283.11 (2) (a) does not apply to rules concerning storm water discharges and s. 283.11 applies to those rules. ✓ Under the draft, s. 283.11 (2) (a) is amended so that it applies to all rules, therefore, s. 283.11 (2) (b) is superfluous. ✓

Please let me know if you have any questions.

Rebecca C. Tradewell  
Managing Attorney  
Phone: (608) 266-7290  
E-mail: becky.tradewell@legis.state.wi.us

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3608/2dn  
RCT:lmk:jf

March 8, 2006

I have made some changes to the analysis in response to the concerns expressed by Tom Dawson, although I disagree that the analysis was inaccurate.

The role of the analysis is to describe the affect of a bill by explaining how it would change current law. It is the task of proponents of a bill to advocate for passage of the bill by providing supporting information, such as that the bill returns the statutes to a previous version (when that is the case).

The redraft instructions indicate that s. 283.11 (2) (b) should be amended rather than repealed. Under current law, s. 283.11 (2) (a) does not apply to rules concerning storm water discharges and s. 283.11 applies to those rules. Under the draft, s. 283.11 (2) (a) is amended so that it applies to all rules, therefore, s. 283.11 (2) (b) is superfluous.

Please let me know if you have any questions.

Rebecca C. Tradewell  
Managing Attorney  
Phone: (608) 266-7290  
E-mail: [becky.tradewell@legis.state.wi.us](mailto:becky.tradewell@legis.state.wi.us)

**Basford, Sarah**

---

**From:** Rinehart, Mark W.  
**Sent:** Tuesday, April 18, 2006 2:19 PM  
**To:** Basford, Sarah  
**Subject:** RE: Draft review: LRB 05-3608/2 Topic: Allow environmental standards to be stricter than federal standards

Can I have this jacketed in the Assembly please? Thanks.

---

**From:** Basford, Sarah  
**Sent:** Wednesday, March 08, 2006 10:21 AM  
**To:** Rinehart, Mark W.  
**Subject:** Draft review: LRB 05-3608/2 Topic: Allow environmental standards to be stricter than federal standards

**Sarah Basford**  
Program Assistant  
State of Wisconsin  
Legislative Reference Bureau  
PH: (608) 266-3561/FAX: (608) 264-6948  
[sarah.basford@legis.state.wi.us](mailto:sarah.basford@legis.state.wi.us)

**State of Wisconsin - Legislative Reference Bureau**  
**One East Main Street - Suite 200 - Madison**

**The attached draft was prepared at your request. Please review it carefully to ensure that it satisfies your intent.** If you have any questions concerning the draft or would like to have it redrafted, please contact Rebecca C. Tradewell, Managing Attorney, at (608) 266-7290, at [becky.tradewell@legis.state.wi.us](mailto:becky.tradewell@legis.state.wi.us), or at One East Main Street, Suite 200.

**If you would like to jacket the draft for introduction, please click on the appropriate button below. Please select only one button.** If you wish to introduce this draft in both houses please contact the drafting attorney to have a companion bill drafted.

**Jacket for the  
ASSEMBLY**

**Jacket for the  
SENATE**